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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किए गए आदेश और अधिसूचनाएँ
Orders and Notifications issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग

आदेश

नई दिल्ली, 7 अगस्त, 1992

आ.अ. 294.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोकसभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उनके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा अपेक्षित रीति से दाखिल करने में असफल रहा है:

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है:

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश को तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र.सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्रम सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निराहेता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, 1991—कर्नाटक	10—कोलार (अ.जा.) संसदीय निर्वाचन-क्षेत्र	श्री चिक्का मुनिवेंकटप्पा नेनुमनाहल्ली शानुबोगानहल्ली पोस्ट, कोलार तालुक और जिला कर्नाटक।	कोई भी लेखा दाखिल नहीं किया।
2.	—वही—	—वही—	श्री के. वी. नारायण, स्वामी खाजी कल्लाहल्ली नारसपुरा पोस्ट, कोलार तालुक और जिला कर्नाटक।	—वही—
3.	—वही—	—वही—	श्री के. रंगास्वामी, बी. टी. एम. 3003, डा. वी. बार. अम्बेडकर रोड, गंगास्मनपालया बंगारपेट, कोलार जिला, कर्नाटक।	—वही—
4.	—वही—	—वही—	श्री एस. एम. श्रीरामप्पा, सेट्टीमाडाभेंगला बेला गलबुट्टे पोस्ट मुगातुर होवलो, कोलार तालुक और जिला, कर्नाटक।	—वही—
5.	—वही—	13—बंगलौर संसदीय निर्वाचन-क्षेत्र	श्री आर. गोपीनाथ, नं. 1, सीतापति अप्रहारा, बंगलौर-2, कर्नाटक।	—वही—
6.	—वही—	—वही—	श्री एल. गंगाधर, नं. 19, दूसरा कास मंजुनाथ नगर मागदी रोड, परसन्ना थिएटर के पीछे, बंगलौर-4, कर्नाटक।	—वही—
7.	—वही—	—वही—	श्री गमराम, नं. 166, 5 मेन, बारासन्दा, जयानगर, बंगलौर-4, कर्नाटक।	—वही—
8.	—वही—	—वही—	श्री जिन्दे मुनियप्पा, नं. 11, डी-कासप्पा लेन, लक्ष्मण राव रोड काम बालपेट, बंगलौर-53, कर्नाटक।	—वही—
9.	—वही—	—वही—	श्री शंकरनारायण, नं. 2/1, पावागड़ा वेंकटरमन, नायक लेन, थर्ड क्रॉस, थिंगलपेट, बंगलौर 2, कर्नाटक।	—वही—
10.	—वही—	—वही—	श्री एन. के. सब्बि श्रीधर, नं. 59, 7वां क्रॉस, मालेश्वरम, बंगलौर-3 कर्नाटक।	—वही—

[मं. 76/कर्ना.सो.स./91 (1-10)]

आदेश से,
घनश्याम खोहर, सचिव

ELECTION COMMISSION OF INDIA

ORDER

New Delhi, the 7th August, 1992

O.N. 294.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses in time/or in the manner prescribed by law or has not lodged the account at all as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder.

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice, or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure.

Now, therefore, in pursuance of section 10(A) of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

S. No.	Particulars of election	Sl. No. & Name of Constituency	Name & Address of contesting candidate	Reason of disqualification
1	2	3	4	5
1.	General Election to Lok Sabha, 1991—Karnataka	10-Kolar (SC) Parliamentary Constituency	Chikka Munivenkatappa, Nenumanahalli, Shanuboganahalli, Post, Kolar Taluk and District, Karnataka.	Account not lodged at all
2.	—do—	—do—	K.V. Narayanaswamy, Khaji Kallahalli Narasapura, Post, Kolar Taluk and Distt. Karnataka.	—do—
3.	—do—	—do—	K. Rangaswamy, B.T.M. 3003, Dr. B.R. Ambedkar Road, Gangammanapalya, Bangarpet, Kolar Distt. Karnataka.	—do—
4.	—do—	—do—	S.M. Sriramappa, Settimadamengala Velagalaburre Post, Sugatur Hobli, Kolar Taluk & Distt., Karnataka.	—do—
5.	—do—	13-Bangalore Parliamentary Constituency	R. Gopinath, No. 1, Seethapathi Agrahara, Bangalore-2, Karnataka.	—do—
6.	—do—	—do—	L. Gangadhar, No. 19, 2nd Cross, Manjunathanagar, Magadi Road End, Behind Prasanna Theatre, Bangalore-23, Karnataka.	—do—
7.	—do—	—do—	V. Jayaram, No. 166, 5th Main, Byrasandra, Jayanagar, Bangalore-4, Karnataka.	—do—
8.	—do—	—do—	Jinde Muniyappa, No. 11, D-Kasappa Lane, Lakshman Rao Road Cross, Balpet, Bangalore-53, Karnataka	—do—

1	2	3	4	5
9. General Election to Lok Sabha, 1991—Karnataka	13-Bangalore Parliamentary Constituency	Shankaranarayana, No. 2/1, Pavagada, Venkataramana Nayaka Lane, 3rd Cross, Thigalarapet, Bangalore-2, Karnataka.	Account not lodged at all	
10. —do—	—do—	N.K. Sachiva Sreedhar, No. 59, 7th Cross, Malleswaram, Bangalore-3, Karnataka.	—do—	

[No. 76/KT-HP/91 (1-10)]

By Order,

A.K. SRIVASTAVA, Secy.

आदेश

नई दिल्ली, 7 अगस्त, 1992

आ.प्र. 295.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तख्तीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा रीति से दाखिल करने में असफल रहा है:

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है।

अतः अथ, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्यक्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं.	निर्वाचन का विवरण	विधानसभा निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
371.	आन्ध्र प्रदेश विधान सभा का साधारण निर्वाचन, 1989।	213—आसफ नगर	श्री बी. चन्द्रकांत, म. तं. 16-522, के. एच. मार्किट, नामपल्ली गुड्स श्रेड, हैदराबाद, आन्ध्र प्रदेश।	कोई भी लेखा दाखिल नहीं किया।
372.	—वही—	280—खम्माम	श्री अचैया गुर्रम, 11-8-179/2, लेनिन नगर, खम्माम जिला, आन्ध्र प्रदेश।	—वही—

[सं. 76/आ.प्र.-वि.स./90(371-372)]

आदेश से,

पद्मनाभ घोहर, सचिव

ORDER

New Delhi, the 7th August, 1992

O.N. 295.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Legislative Assembly specified in column (2), held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses in time/or in the manner prescribed by law or has not lodged the account at all, as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10(A) of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order :—

TABLE

S. No.	Particulars of Election	Sl. No. & Name of Assembly Constituency	Name and Address of contesting Candidates	Reason of disqualification.
371.	General Election to Andhra Pradesh Legislative Assembly, 1989.	213-Asafnagar	Sh. B. Chandra Kant H. No. 16-522, K. H. Market, Nampally Goods Shed, Hyderabad, Andhra Pradesh.	Account not lodged at all
372.	—do—	280-Khammam	Sh. Achaiah Gurram. 11-8-179/2, Lenin Nagar, Khammam District, (Andhra Pradesh).	—do—

[No. 76/AP-LA/90(371-372)]

By Order,

A.K. SRIVASTAVA, Secy.

आदेश

नई दिल्ली, 7 अगस्त, 1992

आ.अ. 296.—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट विधान सभा के साधारण निर्वाचन के लिए ओ स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्षी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्विन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों का लेखा समय के अन्तर्गत और/अथवा अपेक्षित रीति से दाखिल करने में असफल रहा है;

और उक्त अभ्यर्षियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, बिचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-फ के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

सारणी

क्र. सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निराहता का कारण
1	2	3	4	5
1.	कर्नाटक विधान सभा के लिए साधारण निर्वाचन, 1989	41—दाबनोरे विधान सभा निर्वाचन क्षेत्र	श्री एम. बी. तोकोक मोहम्मद, म. नं. 194/5, चामराजपेट दाबनोरे, जिला चित्तपुर, कर्नाटक।	कोई भी लेखा दाखिल नहीं किया।
2.	—वही—	214—बादामो विधान सभा निर्वाचन क्षेत्र	श्री निगप्पा येत्लमा सोशाश इनम भारागेप्पा, बीजापुर, कर्नाटक।	—वही—
3.	—वही—	—वही—	श्री चिन्तारागी शिव भोगप्पा जंगवाड़ा बीजापुर, कर्नाटक।	—वही—
4.	—वही—	—वही—	श्री एम. एम. बासीराया, चौलाचागुड्ड, बीजापुर, कर्नाटक।	—वही—
5.	—वही—	—वही—	श्री हसनसाब नबीसाब, रोल्लो जसगिरी, बीजापुर, कर्नाटक।	—वही—
6.	—वही—	215—गलेडगुड्ड विधान सभा निर्वाचन क्षेत्र	श्री नीलप्पा बासप्पा कालिलगुंडा, वार्ड नं. 1, गलेडगुड्ड, बीजापुर, कर्नाटक।	—वही—
7.	—वही—	—वही—	श्री रामचन्द्र दुर्गप्पा, लेनकेनाबार, काटागेरोगरी, बीजापुर, कर्नाटक।	—वही—

[सं. 76/कर्ना-वि.स./90 (1-7)]

आदेश से,

धनश्याम खोहर, सचिव

ORDER

New Delhi, the 7th August, 1992

O.N. 296.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Legislative Assembly specified in column (2) and held from the constituency specified in column (3) against his name and failed to lodge an account of his election expenses in time/or in the manner prescribed by law or has not lodged the account at all as shown in column (5) of the said Table as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice, or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10(A) of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

TABLE

S. No.	Particulars of election	Sl. No. & Name of Constituency	Name & Address of contesting candidates	Reason of disqualification
1.	General Election to Karnataka Legislative Assembly, 1989	41-Davangere Assembly Constituency	M.V. Toufique Mohamed, H. No. 194/5, Chamarajapet, Davangere, Chitradurga District Karnataka.	Account not lodged at all
2.	—do—	214-Badami Assembly Constituency	Ningappa Yallappa Sonnada, Inam, Yaragoppa, Bijapur, Karnataka.	—do—
3.	—do—	—do—	Birensba Shivayogappa Chittaragai, Jangawada, Bijapur, Karnataka.	—do—
4.	—do—	—do—	M. M. Basayya, Cholachagudd, Bijapur, Karnataka.	—do—
5.	—do—	—do—	Hasenasab Nabisab Rolli, Jalageri Bijapur, Karnataka.	—do—
6.	—do—	215-Guledgud Assembly Constituency	Neelappa Basappa Kalligudda W. No. I, Guledgudd, Bijapur, Karnataka.	—do—
7.	—do—	—do—	Ramachandra Durgappa Lenkenavar, Katageri, Bijapur, Karnataka.	—do—

[No. 76/KT-LA/90(1-7)]

By Order,

A.K. SRIVASTAVA, Secy.

नई दिल्ली, 21 अक्टूबर, 1992

आ.प्र. 297.—निर्वाचन आयोग 1992 की निर्वाचन याचिका सं. 25 में पंजाब एवं हरियाणा के उच्च न्यायालय के तारीख 18-8-1992 के आदेश की लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में इसके द्वारा प्रकाशित करना है।

(संलग्न आदेश अंग्रेजी में छपा है)

[सं. 82/पंजाब-राज्य सभा/25/92]

आदेश में,

बी. एन. चावला, अवर सचिव

New Delhi, the 21st October, 1992

O.N. 297.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the judgment dated 18th August, 1992 of the High Court of Punjab and Haryana in Election Petition No. 25 of 1992.

[No. 82/PB-CS/25/92]

By Order,

B. N. CHAWLA, Under Secy.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Misc. Side

Election Petition No. 25 of 1992

Vijay Kumar, MLA son of Shri Roop Lal Sathi, Ex-MLA, Gali No. 5, Partap Road, Moga.

..Petitioner.

Versus

1. Vinod Kumar Sharma, MP (Rajya Sabha) resident of H. No. 229 Sector 9-B, Chandigarh;

2. Surinder Kumar Singla, MP (Rajya Sabha), resident of S-2, Officers Colony, Ropar. ..Respondents.

Election Petition under Part VI of the Representation of People Act, 1951, praying that this petition be allowed and the election of respondent No. 1 and 2 be declared void.

Dated, the 18th August, 1992.

PRESENT :

The Hon'ble Mr. Justice G. C. Garg.

For the petitioner : Mr. M. S. Khaira, Sr. Advocate with Mr. Nasib Singh Gill and Mr. R. S. Aulakh Adv.

For the respondent No. 1 : Mr. Kapil Sibal, Sr. Advocate with Mr. Nareish K. Joshi, Advocate.

For the respondent No. 2: Mr. Harbhagwan Singh, Sr. Advocate with Mr. Arun Walia, Mr. S. C. Nagpal, Mr. J. S. Yadav and Mr. Jasbir Singh, Advocates.

JUDGMENT

G. C. GARG, J.—Election of respondents Vinod Kumar Sharma and Surinder Kumar Singla to the Council of States (Rajya Sabha) by the elected members of the Legislative Assembly of the State of Punjab has been called in question in this election petition under the Representation of People Act, 1951 (for short 'the Act'), by Shri Vijay Kumar, Member of Legislative Assembly, on various grounds which are not necessary to be detailed for the purposes of this order.

Notice of the election petition was served on the respondents. Written statements have been filed. On the basis preliminary objections raised in the written statements, following preliminary issues were framed with the consent of counsel for the parties:—

1. Whether the election petition does not disclose any cause of action? If so, its effect? OPRs.
2. Whether the election petition is bad for mis-joinder of parties and non-joinder of necessary parties? If so, its effect? OPRs.
3. Relief.

Learned counsel for the parties were further agreed that no evidence was needed for the decision of the preliminary issues.

No arguments were addressed by the learned counsel for the parties on Preliminary Issue No. 1, which is consequently decided against the respondents.

Preliminary Issue No. 2

Under this issue, learned counsel for the respondents submitted that notification dated March 24, 1992, in pursuance of Section 12 of the Act was issued, calling upon the elected members of the Legislative Assembly of the State of Punjab for electing two members for filling up the seats of members of the Council of States, Rajya Sabha, who retired on April 9, 1990. Respondent No. 2 was elected on April 4, 1992 as a member of the Rajya Sabha, in pursuance of this notification, along with Iqbal Singh who, has not been joined as a respondent in this petition. Learned Counsel for the respondents by reference to Sections 82 and 86 of the Act, further submitted that it was necessary to join Iqbal Singh, as one of the respondents in this petition, who was a necessary party and the necessary effect thereof is that this petition is bad for non-joinder of necessary party and thus, deserves to be dismissed in view of the provisions of section 86 of the Act for non-compliance of the provisions of Section 82 of the Act.

Learned Counsel for the petitioner could not controvert that respondent No. 2 and Iqbal Singh were elected as members of the Council of States. Rajya Sabha on April 4, 1992 in pursuance of notification dated March 24, 1992 issued under Section 12 of the Act for electing two members and that Iqbal Singh has not been joined as a respondent in this petition.

Section 82 and the relevant portion of Section 86 of the Act, on which reliance was placed by learned counsel for the respondents, read as under:—

Section 82.—Parties of the petition.—

A petitioner shall join as respondents to his petition—

- (a) where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates: and
- (b) any other candidate against whom allegations of any corrupt practice are made in the petition.

Section 86.—Trial of election petition.—

- (1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81, or section 82 or section 117.

*Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98.

The facts are not disputed. A plain reading of Section 82 of the Act leads to an irresistible conclusion that it enjoins upon the petitioner to join in the election petition all the returned candidates even where a declaration is not sought that the petitioner or any other candidate be declared as elected. In this petition, no declaration has been sought and, therefore, it was not necessary to join all the contesting candidates, but it was absolutely necessary to join all the returned candidates. Iqbal Singh, one of the returned candidates has not been joined who was a necessary party to the petition Sub-section (1) of Section 86 of the Act, again in unequivocal terms enjoins upon the Court to dismiss an election petition which does not comply with the provisions of Section 82 of the Act. In the circumstances, the conclusion is obvious and the election petition deserves to be dismissed, as Iqbal Singh, one of the returned candidates has not been joined as a party to the petition. Vinod Kumar Sharma has been joined as a respondent who was not required to be so joined. The finding under Preliminary Issue No. 2 is, thus, returned in favour of the respondents and against the petitioner.

As a consequence of findings under Preliminary Issue No. 2, the election petition fails and is dismissed. The parties are, however, left to bear their own costs.

August 18, 1992.

Sd./- G. C. GARG, Judge

नई दिल्ली, 21 अक्टूबर, 1992

भा.प्र. 298.—निर्वाचन आयोग 1992 की निर्वाचन याचिका सं. 26 में पंजाब एवं हरियाणा के उच्च न्यायालय के तारीख 18-8-1992 के आयोग की लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में इसके द्वारा प्रकाशित करता है।

(संलग्न आदेश अंग्रेजी में छपा है।)

[सं. 82/पंजाब-राज्य सभा/26/92]

आदेश से,

बी. एन. चावला, अवसर सचिव

New Delhi, the 21st October, 1992

O.N. 298.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement of the High Court of Punjab and Haryana dated 18-8-1992 in Election Petition No. 26 of 1992.

[No. 82/PB-CS/26/92]

By Order,

B. N. CHAWLA, Under Secy.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CIVIL MISC. SIDE

ELECTION PETITION NO. 26 of 1992

1. Vijay Kumar M.L.A. son of Sh. Roop Lal Sathi Ex. M.L.A. Gali No. 5, Partap Road, Moga.
2. Baldev Singh Mann son of S. Mukand Singh, resident of Village & PO Sular Gharaat, Tehsil and District Sangrur.

Sangrur

.. Petitioners

Versus

1. Iqbal Singh, MP, resident of 59-L, Model Town, Jullundur City;
2. Balbir Singh, MP, resident of 31, New Jawahar Nagar, Jullundur;
3. Jagir Singh Dard, resident of Nandpur, PO Sahnawal, District Ludhiana. . . Respondents

Election Petition under Part VI of the Representation of People Act, 1951, praying that this petition be allowed and the election of respondent Nos. 1, 2 and 3 be declared void.

Dated the 18th August, 1992

PRESENT :

THE HON'BLE MR. JUSTICE G. C. GARG

For the petitioner : Mr. M. S. Khaira, Sr. Advocate with Mr. Nasib Singh Gill & Mr. R. S. Aulakh, Advocates.

For the respondents : Mr. Harbhagwan Singh, Sr. Advocate with Mr. Arun Walia, Mr. J. S. Yadav, Advocates.

JUDGMENT

G. C. GARG, J.

Election of respondents, Iqbal Singh, Balbir Singh and Jagir Singh Dard to the Council of States, Rajya Sabha, by the elected members of the Legislative Assembly of the State of Punjab has been called in question in this petition under the Representation of People Act, 1951 (for short 'the Act') by Shri Vijay Kumar, Member of Legislative Assembly and one Baldev Singh Mann, on various grounds which are not necessary to be detailed for the purposes of this order.

Notice of the election petition was served on the respondents. Written statements have been filed. On the basis of preliminary objections raised in the written statements, following preliminary issues were framed with the consent of counsel for the parties :—

1. Whether the election petition does not disclose any cause of action? If so, its effect? OPRs.
2. Whether the election petition is bad for misjoinder of parties and non-joinder of necessary parties? If so, its effect? OPRs.
3. Relief.

*Learned counsel for the parties were further agreed that no evidence was needed for the decision of the preliminary issues.

No arguments were addressed by the learned counsel for the parties on Preliminary Issue No. 1, which is consequently decided against the respondents.

Preliminary Issue No. 2

Under this issue, learned counsel for the respondents submitted that notification dated March 24, 1992, in pursuance of Section 12 of the Act was issued, calling upon the elected Members of the Legislative Assembly of the State of Punjab for electing three members for filling up the seats of members of the Council of States, Rajya Sabha, who retired on April 2, 1988. Respondent Nos. 2 and 3 were elected on April 4, 1992 as members of the Rajya Sabha, in pursuance of this notification, alongwith Vinod Kumar who, has not been joined as a respondent in this petition. Learned counsel for the respondents by reference to Sections 82 and 86 of the Act, further submitted that it was necessary to join Vinod Kumar, as one of the respondents in this petition, who was a necessary party and the necessary effect thereof is that this petition is bad for non-joinder of necessary party and thus, deserves to be dismissed in view of the provisions of Section 86 of the Act for non-compliance of the provisions of Section 82 of the Act.

Learned counsel for the petitioner could not controvert that respondent Nos. 2, 3 and Vinod Kumar 4* were elected as members of the Council of States, Rajya Sabha on April 4, 1992 in pursuance of notification dated March 24, 1992 issued under Section 12 of the Act for electing three members and that Vinod Kumar has not been joined as a respondent in this petition.

Section 82 and the relevant portion of Section 86 of the Act, on which reliance was placed by learned counsel for the respondents, read as under :—

"SECTION 82. Parties of the petition :—

A petitioner shall join as respondents to his petition—

- (a) where the petitioner, in addition to claiming declaration that the election of all or any of the returned candidates is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, all the returned candidates; and
- (b) any other candidate against whom allegations of any corrupt practice are made in the petition.

SECTION 86. Trial of election petitions.—

- (1) The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117.

*Explanation.—An order of the High Court dismissing an election petition under this sub-section shall be deemed to be an order made under clause (a) of section 98."

That facts are not disputed. A plain reading of Section 82 of the Act leads to an irresistible conclusion that it enjoins upon the petitioner to join in the election petition all the returned candidates even where a declaration is not sought that the petitioner or any other candidate be declared as elected. In this petition, no declaration has been sought and, therefore, it was not necessary to join all the contesting candidates, but it was absolutely necessary to join all the returned candidates. Vinod Kumar, one of the returned candidates has not been joined who was a necessary party to the petition. Sub-section (1) of Section 86 of the Act, again in unequivocal terms enjoins upon the Court to dismiss an election petition which does not comply with the provisions of Section 82 of the Act. In the circumstances, the conclusion is obvious and the election petition deserves to be dismissed, as Vinod Kumar, one of the returned candidates has not been joined as a party to the petition. Iqbal Singh has been joined as a respondent who was not required to be so joined. The finding under Preliminary Issue No. 2 is, thus, returned in favour of the respondents and against the petitioners.

*As a consequence of finding under Preliminary Issue No. 2, the election petition fails and is dismissed. The parties are, however, left to bear their own costs.

August 18, 1992.

Sd/- G. C. GARG, Judge

नई दिल्ली, 19 अक्टूबर, 1992

आ.अ. 209.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 21 के उपबन्धों के अन्वयेण ये निर्वाचन आयोग तमिलनाडु सरकार के परामर्श से यह निदेश देता है कि उसकी तारीख 18 मार्च, 1991 की अधिसूचना सं. 434/त.ना./91(1) में निम्नलिखित संशोधन किए जाएंगे :—

उक्त अधिसूचना से संलग्न सारणी के स्तम्भ 2 में, स्तम्भ (1) में 3-मद्रास दक्षिण के सामने, विद्यमान प्रविष्टि के स्थान

शब्द “उपायुक्त (सामान्य प्रशासन और कार्मिक) मद्रास निगम,
मद्रास-3” प्रविष्टि रखी जाएगी।

[सं. 434/त.ना./92(1)]

आदेश से,
घनश्याम खोहर, सचिव

New Delhi, the 19th October, 1992

O.N. 299.—In pursuance of provisions of Section 21 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission, in consultation with the Government of Tamil Nadu, hereby directs that the following amendment shall be made in its notification No. 434/TN/91(1) dated 18th March, 1991, namely :—

In column (2) of the Table appended to the said Notification, for the existing entry against 3-Madras South in column (1) thereof, the entry “Deputy Commissioner (General Administration and Personnel), Corporation of Madras, Madras 3” shall be substituted.

[No. 434/TN/92(1)]

By Order,
GHANSHYAM KHOHAR, Secy.

शुद्धिपत्र

नई दिल्ली, 19 अक्टूबर, 1992

प्रॉ. अ. 300.—तारीख 7 अक्टूबर, 1992 के आदेश के आदेश संख्या 76/राज.-लो.स./92(3) के हिन्दी रूपान्तर में तारीख 7 सितम्बर, 1992 के स्थान पर 7 अक्टूबर, 1992 पढ़ी जाए।

[सं. 76/राज.-लो.स./92]

आदेश से,
घनश्याम खोहर, सचिव

CORRIGENDUM

New Delhi, the 19th October, 1992

O.N. 300.—In Hindi version of the Commission's Order No. 76/RJ-HP/92(3), dated 7th October, 1992, the date shall be read as 7th October, 1992 in place of 7th September, 1992.

[No. 76/RJ-HP/92]

By Order,
GHANSHYAM KHOHAR, Secy.